

Department of Legislative Services  
Maryland General Assembly  
2015 Session

FISCAL AND POLICY NOTE  
Revised

House Bill 113  
Judiciary

(Delegate Conaway)

Judicial Proceedings

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Local Government Tort Claims Act - Limits on Liability

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This bill increases the liability limits under the Local Government Tort Claims Act (LGTCA) from \$200,000 to \$300,000 per individual claim and from \$500,000 to \$600,000 per total claims that arise from the same occurrence for damages from tortious acts or omissions.

The bill applies prospectively to causes of action arising on or after the bill's October 1, 2015 effective date.

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Fiscal Summary

**State Effect:** The bill does not materially affect State finances.

**Local Effect:** Potential significant increase in expenditures for local governments to (1) pay judgment awards that exceed the current liability limits under LGTCA and (2) pay increased insurance premiums for liability coverage against LGTCA claims. Revenues are not affected.

**Small Business Effect:** Potential meaningful impact on small business law firms that secure higher judgment awards for their LGTCA clients as a result of the bill.

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Analysis

**Current Law/Background:** LGTCA defines local government to include counties, municipal corporations, Baltimore City, and various agencies and authorities of local governments such as community colleges, county public libraries, special taxing districts, nonprofit community service corporations, sanitary districts, housing authorities, and commercial district management authorities.

LGTCa limits the liability of a local government to \$200,000 per individual claim and \$500,000 per total claims that arise from the same occurrence for damages from tortious acts or omissions (including intentional and constitutional torts). It further establishes that the local government is liable for tortious acts or omissions of its employees acting within the scope of employment. Thus, LGTCa prevents local governments from asserting a common law claim of governmental immunity from liability for such acts of its employees.

The liability limits under LGTCa have not been changed since 1987.

**Local Expenditures:** The bill may result in a significant increase in expenditures for local governments to pay judgment awards that exceed the current limits on liability under the LGTCa and pay increased insurance premiums for coverage of LGTCa claims. Some local governments covered under LGTCa obtain insurance coverage through the Local Government Insurance Trust (LGIT), a self-insurer that is wholly owned by its member local governments.

LGIT's membership currently includes 17 counties, 142 municipalities, and 20 sponsored entities. LGIT operates a Primary Liability Pool (PLP) and a Property Pool. The PLP has five basic coverages – general liability, automobile liability, public officials' liability (includes errors and omissions), law enforcement liability, and automobile physical damage. The Property Pool covers multiple perils. The number of claims paid by LGIT for amounts at or above the LGTCa limits varies by year. Since 1989, LGIT has paid 25 claims at or above the LGTCa limits (excluding defense costs). In fiscal 2014, LGIT paid out approximately \$5.7 million in liability claims, excluding defense costs.

The bill increases indemnity, legal defense, and (for those who are not self-insured) insurance costs for counties and their insurers. LGIT assesses premiums based on the projected claims and losses of its members. If claims increase in volume or amount as a result of the bill, insurance premiums for its members also increase.

According to an informal analysis, LGIT estimates that, factoring in both indemnity and defense costs, LGIT could experience as much as a 2.9% increase in annual costs. If the increased liability limits under the bill discourage LGTCa plaintiffs from settling, members could face additional litigation costs.

As previously mentioned, not all counties have liability coverage under LGIT's PLP. Some larger jurisdictions, including the Baltimore City and Baltimore, Harford, Howard, and Prince George's counties, do not participate in PLP. Some of these larger jurisdictions pay liability claims out of a self-maintained fund.

Baltimore City is self-insured and pays claims out of its taxpayer general funds. Baltimore City advises that during 2012, it paid out approximately \$1.4 million in claims that reached

the liability limits under LGTCA. Baltimore City estimates that had the LGTCA liability limit been \$300,000/\$600,000, it would have paid approximately \$2.1 million in these cases – a \$700,000 increase in expenditures.

Baltimore County also pays claims out of its general fund. Baltimore County advises that any increase in awards/claim payments above the current LGTCA liability limits results in additional expenditures for the county.

Prince George's County advises that the county's Risk Management Fund already has a significant deficit, and the bill's provisions may increase the amount and number of liability payments from the fund.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Baltimore City; Baltimore, Calvert, Montgomery, and Prince George's counties; Maryland Association of Counties; City of Bowie; Judiciary (Administrative Office of the Courts); Maryland Association of Counties; Maryland State Treasurer's Office; Local Government Insurance Trust; Department of Legislative Services

**Fiscal Note History:** First Reader - February 16, 2015  
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